



Country of Origin Labeling Surveillance Review Procedures for Retail Facilities

1 Purpose

This document provides the procedures for conducting surveillance reviews of retail facilities to determine compliance with the Country of Origin Labeling (COOL) requirements of the 2002 Farm Bill.

2 Scope

The surveillance review procedures are applicable to retail facilities licensed under the Perishable Agricultural Commodities Act (PACA) of 1930. The surveillance reviews will be conducted at retail facilities designated by the Department of Agriculture (USDA), Agricultural Marketing Service (AMS), Livestock and Seed (LS) Program, Standards, Analysis, and Technology (SAT) Branch.

3 Reference Documents

- o *Federal Register Part IV USDA AMS 7 CFR Part 60 Mandatory Country of Origin Labeling of Fish and Shellfish; Interim Rule*
- o *Country of Origin Labeling Compliance Guide*
- o *COOL Retail Surveillance Workbook*
- o <http://www.ams.usda.gov/cool/index.htm>

4 Responsible Authority (Agency)

The responsible authority for conducting COOL surveillance reviews is the USDA, AMS, LS Program, SAT Branch. The responsible authority will be referred to as USDA in this document.

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5 Responsibilities

USDA employees and representatives operating under delegated authority from USDA shall:

- a) Possess valid official government issued picture identification.
- b) Identify themselves to retail facility officials by using their official identification.
- c) Indicate to facility officials that they are an agent of the USDA conducting an official review to verify compliance with the COOL requirements of the 2002 Farm Bill.
- d) Dress appropriately and conduct themselves in a professional manner at all times.
- e) Interact with retail facility personnel in a courteous and diplomatic manner while remaining observant and thorough in conducting the review.
- f) Limit the scope of the review to the covered commodities offered for retail sale and the supporting documentation that verifies COOL compliance at the retail facility.
- g) Conduct an opening and closing meeting with the retail facility officials.
- h) Answer any questions and provide information concerning the COOL regulation requirements.
- i) Contact the COOL Program Manager with any questions and forward all findings as set forth in this document.
- j) Discuss all findings with the retail facility official during the closing meeting.
- k) Consider any information gathered during a review as confidential, not to be shared with officials or employees of other stores or businesses.
- l) Complete the applicable forms in the Cool Retail Surveillance Workbook (COOL Workbook) and submit to USDA at the designated contact point.
- m) Ensure proper expense information is submitted to USDA, when applicable.

6 Review Frequency

Review locations and frequency will be pre-determined and assigned to reviewers by USDA.

7 Review Procedures

7.1 Prior to conducting the review, go over the reference documents and become familiar with all COOL requirements and covered commodities.

7.2 Refer to the Store Assignment List provided by the COOL Program Manager to obtain information about the retail facility designated for reviewing by the USDA.

Note: If the store has been reviewed previously, the Review Number will start with an "F" and the previous review file name will be included on the Store Assignment List. Contact the COOL Program Manager to request a copy of the COOL Workbook from the previous review for the purpose of obtaining additional information about the facility and any non-compliance findings that have been previously identified.

7.3 In the Excel version of the COOL Workbook, enter the available information onto the COOL Retail Surveillance Worksheet (Worksheet). This information will be automatically transferred to the COOL Retail Surveillance Information Form (Information Form) and the COOL Retail Surveillance Checklist (Checklist) in the COOL Workbook.



- 7.4** Save the COOL Workbook with the following file naming format:
- Two letter abbreviation of the state that the review is performed in.
 - Date the review is conducted in MM DD YY format.
 - Initials of the reviewer conducting the review.
 - Pre-assigned Review Number, obtained from the Store Assignment List.
 - Do not use any punctuation in the file name for the Workbook.
 - File name examples:
 - WA 06 25 08 WMM N012 – COOL retail surveillance review number N012 conducted by WMM in the state of Washington on June 25, 2008.
 - MA 07 20 08 PWM N045 – COOL retail surveillance review number N045 conducted by PWM in the state of Massachusetts on July 20, 2008.
 - LA 08 03 08 SJC F013 – Follow-up COOL retail surveillance review number F013 conducted by SJC in the state of Louisiana on August 3, 2008.
- Note: Per Section 7.3 above, if the store has been previously reviewed as indicated by a Review Number that starts with “F”, contact the COOL Program Manager to obtain a copy of the COOL Workbook from the previous review.
- 7.5** Print the Worksheet to facilitate data collection during the review. Print the Information Form and Checklist to leave with the retail facility at the conclusion of the review.
- 7.6** Adhere to the responsibilities outlined in Section 5 of this document.
- 7.7** Upon arrival at the facility, the reviewer shall introduce themselves as a representative of the USDA; provide the facility representative with official government identification; and request a meeting with the facility manager, counter manager, or other appropriate official. The retail facility representative may invite anyone he/she believes would be involved in COOL compliance requirements to participate in the review.
- Note: If the facility representative refuses to cooperate with the review, gather as much information as possible and leave the facility. Document the specifics of the incident, including the facility representative’s name, if possible; and contact the COOL Program Manager with the information. Every effort should be made to complete the review; however, do not confront a belligerent or reluctant facility representative.
- 7.8** Conduct a short opening meeting, covering the following areas:
- Explain the scope and objective of the review.
 - Scope of the review - The store’s labeling of covered commodities for country of origin and method of production and the supporting documentation to verify COOL compliance for all covered commodities available for sale at the retail facility.
 - Objective of the review - To determine the retail facility’s compliance to the COOL regulation requirements.
 - Provide the Information Form to the facility representative.
 - Provide a short summary of the methods and procedures to be used to conduct the review.



- d) Ask the facility representative to provide you with an estimate of the covered commodities sold by the store, *i.e.* how many different kinds of store labeled and consumer ready pre-labeled items are available for sale.
- e) Inform the facility representative that records **will** be required for two randomly selected covered commodities for the purpose of:
 - 1) Verifying the accuracy of the country of origin and method of production labeling.
 - 2) Providing information **about** the previous supplier along with a unique identifier that will permit traceability to the importer or the supplier that is responsible for initiating the COOL claims. Ascertain what type of records the facility maintains to provide this information. If the records are not maintained at the facility, verify that the records can be submitted prior to the conclusion of the review.
- f) Gather additional information about the retail facility. Verify the facility name, number, address, phone number, and representative's name. In addition, obtain the name of the person and the address that the official review notification and request for corrective actions should be sent to.
- g) Answer any questions pertaining to the review or to the COOL regulation.
- h) Inform the facility representative that they are welcome to accompany you during the review.
- i) Confirm the time and location for a closing meeting at the conclusion of the review.

- 7.9 Examine all covered commodities available for retail sale at the facility to evaluate if the items are labeled or identified in compliance with COOL regulation requirements. Observe all locations where covered commodities may be presented for sale, including the retail service counter, fresh and frozen seafood areas, sale counters, and promotional display areas. In-store delis and foodservice areas are exempt from COOL regulation requirements.
- 7.10 While conducting the review, determine an estimate of the number of store-labeled and consumer-ready pre-labeled items that are offered for retail sale. Record this information in the *Estimate of Covered Commodities Available for Review* section of the Worksheet.
- 7.11 Explain to the facility representative what you are looking for (to the extent possible). If a non-compliance finding is identified, bring this to the facility representative's attention.
- 7.12 If the store has been reviewed previously, verify that any non-compliance findings identified during the previous review have been corrected. If the non-compliance findings have not been corrected, note this information in the *Additional Comments and Information* section of the Worksheet.



- 7.13** Document information on the Worksheet for any covered commodities that are not identified in accordance with the COOL regulation requirements. Record the name(s) of the non-complying item(s) and briefly summarize the non-compliance finding on the Worksheet adjacent to the applicable *Item to be Verified* in the sections for *Non-Complying Items* and *Description of Finding*. Document all information that will explain and support the non-compliance findings that are identified. Additional information may be entered on the Worksheet in the *Additional Comments and Information* section.
- 7.14** Select two covered commodities to conduct an in-store traceback for the purpose of verifying the accuracy of the COOL information and to provide information on the previous supplier of the covered commodity. If extra time is necessary for the facility to locate the records, select the traceback items and give this information to the store representative early in the review so that the records will be available prior to the conclusion of the review.
- a) Complete the *Tracebacks* section of the Worksheet.
 - 1) *Store's Labeling Information* section: Document the COOL information provided to the customer by the store labels.
 - 2) *Record Information* section: Document the COOL information provided by the store's records.
 - 3) *Records Reviewed* section: Document which records were reviewed.
 - 4) *Unique Item ID* section: Document any identifying information from the item label or records including: the invoice, bill of lading, or purchase order number; the date of the reviewed document; the product's unique identifier or lot number, etc.
 - 5) *Supplier Information* section: Document all available information about the supplier of the item including the supplier's name, address, and phone number.
 - b) Document enough information in the *Tracebacks* section of the Worksheet to enable a traceback to the supplier responsible for importing the item or making the initial claim for country of origin and method of production. In order to ensure that suppliers are in compliance with the COOL regulations, USDA shall randomly select retail surveillance reviews to gather additional information on covered commodities for the purpose of conducting tracebacks to the supplier responsible for importing the item or initiating the country of origin and method of production claims.
 - c) If the covered commodity is pre-labeled on the consumer-ready retail package with the country of origin and method of production, the COOL information on the package label is sufficient evidence to establish the product's country of origin and method of production. No further record review is necessary to verify the accuracy of the COOL claims.
 - d) If the covered commodity is pre-labeled for country of origin and method of production on the retail package or on the shipping container and subsequently re-labeled at the retail facility, the original label from the retail package or shipping container may be observed to verify compliance to the COOL regulation requirements. If the container with the COOL information is not available for review, examine bills of lading, shipping manifests, receiving documents, product labels, or any documents that will verify the country of origination declaration and method of production designation for the selected item. Store logs may only be used to verify COOL claims if used in conjunction with other official documentation.



- e) If the COOL information is not provided on the retail package or shipping container, the documentation must contain information that identifies the retail supplier, the product, the country (ies) of origin and method(s) of production, and some form of tracking (i.e. unique identifier) that links the documentation to the covered commodity.
- f) Records relied upon at the point of sale to establish a covered commodity's country of origin and method of production must be available during normal business hours to any duly authorized representative of USDA for as long as the product is on hand.
- g) If findings are identified during the traceback, record all applicable information in the *Tracebacks* section of Worksheet. Enter the non-complying item in the *Non-Complying Items* section and briefly summarize the non-compliance finding in the *Description of Finding* section adjacent to the applicable *Items to be Verified*.

7.15 When all covered commodities have been reviewed and the tracebacks have been completed, finalize the Worksheet by documenting that each of the *Items to be Verified* has been addressed by entering a "Yes" or "No" in the column adjacent to the *Items to be Verified*. If any of the *Items to be Verified* do not apply or if there are not any covered commodities available to review, complete this column by placing a "NA" in the block adjacent to the applicable *Items to be Verified*. If non-compliance findings have been identified, summarize the findings in the *Description of Finding* section on the Worksheet and the Checklist. Provide enough information to explain and support the findings identified.

7.16 Conduct a closing meeting with the facility representative. The facility representative may invite other store personnel that are involved in the COOL regulation requirements to attend the closing meeting. During the closing meeting:

- a) Provide the completed Checklist to the facility representative with the non-compliance findings summarized. Discuss the results of the review and any findings that have been identified.
- b) Verify that the name of the Responsible Authority and the mailing address is recorded on the Worksheet. This information is required for the issuance of the Review Notification Letter and request for corrective actions.
- c) Inform the store representative that the findings are not official until they are reviewed by the COOL Program Manager and that they will receive a letter from USDA requesting corrective actions to address the findings, if applicable.
- d) Answer all questions pertaining to the review or the findings.
- e) Thank the store officials for their time and cooperation.



8 Post Review Procedures

- 8.1 After the conclusion of the review, enter all of the information from the written Worksheet onto the Excel Worksheet in the Excel COOL Workbook.
- 8.2 Enter Yes, No, or NA in the *Findings Identified* section on the Worksheet.
- 8.3 Put an "X" in the applicable block to provide an estimate of the covered commodities available for retail review.
- 8.4 Complete the Tracebacks section with the applicable information.
- 8.5 Enter Yes, No, or NA for each of the *Items to be Verified* on the Worksheet.
- 8.6 If non-compliance findings have been identified, summarize the findings in the *Description of Finding* section of the Excel Worksheet using clear, concise, complete, and descriptive statements, so that the finding(s) can be easily understood by the COOL Program Manager and included in the Review Notification letter.
- 8.7 Include any additional information in the *Additional Comments and Information* section of the Excel Worksheet.
- 8.8 Submit charges for the review using established procedures.
- 8.9 E-mail the completed Excel COOL Workbook to COOLAudit@usda.gov. Indicate if findings have been identified by noting this information in the subject line or body of the e-mail for each COOL Workbook that is submitted.



9 Types of Violations

9.1 Failure to Label Product. It is a violation for a retailer to fail to identify the country of origin and method of production of a covered commodity at the final point of sale to consumers.

9.2 Misabeled Product. It is a violation for a retailer to incorrectly identify the country of origin and method of production of a covered commodity. Retailers are required to provide accurate notification to consumers about the country of origin and method of production of covered commodities. Any retailer that is found to have provided inaccurate information will not be held in violation if the information provided by the supplier(s) was inaccurate and the retailer could not have been reasonably expected to have had knowledge of the violation.

9.3 Failure to Maintain Records. It is a violation for retailers and their suppliers to fail to maintain records that will:

- a) Permit substantiation of country of origin and method of production claims.
- b) Provide supplier or chain of custody information that will allow traceability to the firm or entity responsible for initiating the country of origin and method of production claims.

10 General Information

If any questions arise or problems are encountered during the review, immediately contact the COOL Program Manager using designated procedures or at 202-720-4486.

These procedures are effective immediately.

Martin E. O'Connor, Chief
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